

## **REMARKS**

### ***RCE under 37 CFR §1.114***

This Amendment accompanies a Request for Continued Examination (RCE) and associated fee under 37 CFR §1.17(e). Applicants believe that no additional fees are required. However, the Commissioner is authorized to charge our Deposit Account No. 08-2789 for any additional fees or credit the account for any overpayment.

### ***Claims***

Upon entry of this amendment, claims 24-46 will be pending in the application. Claims 1-23 have previously been canceled. Independent claims 24 and 34 have been amended. No claims have been added. Reconsideration is respectfully requested.

### ***Claim Rejections – 35 U.S.C. §102(b)***

Claims 24-27 and 34-40 stand rejected under 35 U.S.C. §102(b) as being anticipated by Windsor et al. (U.S. Patent No. 2,926,683). Applicants have amended independent claims 24 and 34 and believe that amended claims 24 and 34 define over the cited prior art or any combination thereof.

Independent claim 24, as amended, recites an apparatus for use in delivering medication to separate locations from a single source of medication. The apparatus includes a valve housing defining an inlet for receiving the medication from the single source of medication and first and second outlets of substantially equal flow capacity for delivering the medication to the separate locations in substantially equal amounts. The valve housing has a longitudinal axis and the first and second outlets are spaced from and parallel to the longitudinal axis. A cap is coupled to the valve housing and a flexible diaphragm is disposed between the cap and the valve housing to define a pressure chamber in fluid communication with the inlet and the outlets. The flexible diaphragm moves between a closed position to seal the pressure chamber from the outlets and an open position to open the pressure chamber to the outlets. A biasing mechanism operates between the cap and the flexible diaphragm to bias the flexible diaphragm towards the

closed position. The biasing mechanism is disposed about the longitudinal axis of the valve housing. A pair of flexible tubes having proximal and distal ends is also provided. Each of the proximal ends is coupled to one of the outlets to convey the medication from the outlets to the separate locations. A connector 78A, 78B is coupled to each of the flexible tubes at the distal ends. See FIG. 17 for example. The connectors 78A, 78B are adapted for receiving catheters used to deliver the medication to a patient.

Windsor et al. discloses a valve suitable for use with a breathing apparatus. The valve includes a valve body 1 and a cap 10. The cap 10 defines an inlet for receiving fluid such as oxygen from an oxygen bottle. More specifically, the cap 10 secures a nipple 17 to the valve body 1 and the nipple 17 is adapted for connecting to a hose leading to the oxygen bottle. The valve body 1 defines a plurality of outlets 8 for delivering the fluid to a facepiece of the breathing apparatus. A screw plug 2 is coupled to the valve body 1. A flexible diaphragm 27 is disposed between the screw plug 2 and the valve body 1 to define a pressure chamber 7 in fluid communication with the inlet and the outlets 8. The flexible diaphragm 27 moves between a closed position to seal the pressure chamber 7 from the outlets 8 and an open position to open the pressure chamber 7 to the outlets 8. The flexible diaphragm 27 is shown in the closed position in FIG. 2 of Windsor et al. In one embodiment, a spring 40 operates between the screw plug 2 and the flexible diaphragm 27 to bias the flexible diaphragm 27 towards the closed position.

In the subject application, the apparatus claimed is intended for use with a single source of medication to split the flow of medication into at least two separate flow paths that lead to a pair of catheters used to deliver the medication to separate sites on a patient. Thus, claim 24 has been amended to now recite a pair of flexible tubes and connectors. In one embodiment, the connectors are adapted for receiving complementary end fittings of the catheters. Nowhere in Windsor et al. do the inventors contemplate using a pair of flexible tubes connected to the outlets to convey fluid to separate sites, as required by independent claim 24. Instead, each of the outlets in Windsor et al. are intended to direct fluid to the same location, e.g., within the facepiece of a breathing apparatus. As a result, there is no need for Windsor et al. to utilize separate flexible tubes to convey fluid. For these reasons, Applicants respectfully submit that Windsor et al. fails to anticipate each and

every limitation now recited in independent claim 24. Thus, Applicants believe that independent claim 24 is in condition for allowance.

Applicants respectfully submit that independent claim 34 is also in condition for allowance for the reasons presented above with respect to independent claim 24. Independent claim 34 recites similar limitations to independent claim 24 except that independent claim 24 recites a biasing mechanism, while independent claim 34 recites a control block with a control surface.

Finally, Applicants submit that dependent claims 25-33 and 35-46 are in condition for allowance based on their dependency to independent claims 24 and 34 and the failure of the references to suggest independent claims 24 and 34.

***Claim Rejections – 35 U.S.C. §103(a)***

Claims 28-29 and 41-42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Windsor et al. in view of Rake et al. (U.S. Patent No. 6,251,098). Claims 30, 31, 43, and 44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Windsor et al. in view of O'Boyle (U.S. Patent No. 4,874,386). Claims 32, 33, 45, and 46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Windsor et al. in view of Sexton et al. (U.S. Patent No. 5,213,468). These rejections are now moot based on the arguments presented above with respect to independent claims 24 and 34.

Applicant respectfully submits that the subject application is now in condition for allowance. Applicant believes that no additional fees are required. In any event, however, the Commissioner is authorized to charge our Deposit Account No. 08-2789 for any additional fees or credit the account for any overpayment.

**Respectfully submitted,**

**HOWARD & HOWARD ATTORNEYS**

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Date

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